

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

|                                |   |                              |
|--------------------------------|---|------------------------------|
| LARRY NORRIS, pro se.,         | ) | CASE NO. 1: 14 CV 906        |
|                                | ) |                              |
| Plaintiff,                     | ) | JUDGE DONALD C. NUGENT       |
|                                | ) |                              |
| v.                             | ) | <u>ORDER ADOPTING REPORT</u> |
|                                | ) | <u>AND RECOMMENDATION</u>    |
| O'DELL EARGLE, <i>et al.</i> , | ) |                              |
|                                | ) |                              |
|                                | ) |                              |
| Defendants.                    | ) |                              |

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Greg White. Magistrate Judge White recommends that the case be dismissed in its entirety on statute of limitations grounds. Following the issuance of the Report and Recommendation, the Plaintiff filed a “Response to Defendant’s Opposition to Dismiss and Motion to Strike Marisa Davidson Declaration.” (ECF #37). The Court will treat this as a timely filed objection to the Report and Recommendation.

The Court has reviewed *de novo* those portions of the Magistrate Judge’s Report and Recommendation to which objection has been made. *See* FED. R. CIV. P. 72(b). Magistrate Judge White’s Report and Recommendation is well-supported and correct. All viable claims raised by the Plaintiff arise under either *Bivens* or under the Federal Tort Claims Act. In Ohio a

*Bivens* claims are subject to a two year statute of limitations, which in this case would have expired on April 21, 2104. The Federal Tort Claims Act bars claims if they are not brought within six months of an adverse agency decision. Under this provision, Plaintiff's FTCA claim would have expired on February 16, 2014. Plaintiff's claim was not filed on or before April 21, 2014. Therefore, all of Plaintiff's claims are time barred. Further, for the reasons set forth in the Report and Recommendation, Plaintiff did not satisfy his burden of proving he was entitled to equitable tolling

The Report and Recommendation, (ECF #36), is ADOPTED in its entirety. The Defendants' Motions to Dismiss, (ECF #21, 23), are GRANTED on statute of limitations grounds. Plaintiff's Motion for Equitable Tolling, (ECF #28), is DENIED, and Plaintiff's claims are dismissed with prejudice. IT IS SO ORDERED.

/s/ Donald C. Nugent  
DONALD C. NUGENT  
United States District Judge

DATED: August 27, 2015

